

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.7426 OF 2011

Meg Raj (dead)
Thr. L.Rs. & Ors.Appellant(s)

VERSUS

Manphool(Dead) Thr.
L.Rs. & Ors. ...Respondent(s)

WITH

CIVIL APPEAL No.3145 OF 2019
(arising out of S.L.P.(c) No.9723/2009)

J U D G M E N T

Abhay Manohar Sapre, J.

1. Leave granted in S.L.P.(c) No.9723/2009.
2. These appeals are directed against the final judgment and order dated 28.01.2008 passed by the

High Court of Punjab & Haryana at Chandigarh in R.S.A. Nos.40/1984 & 2712/1987 whereby the High Court dismissed R.S.A. No.40 of 1984 and allowed R.S.A. No.2712 of 1987.

3. A few facts need mention for the disposal of these appeals, which involve a short point. The facts are taken from R.S.A. No.40/1984 which arose out of C.S. No.24-C/1979.

4. The appellants are the legal representatives of the original plaintiffs and the respondents are the legal representatives of original defendants in the Civil suit No.24-C/1979 & Civil Suit No.62-C/1979 out of which these appeals arise.

5. The dispute relates to 4/5th share in the land measuring 643 Bighas and 4 Biswas situated in village Umedpura, District Sirsa, State of Haryana (hereinafter referred to as "the suit land"). The suit land was subjected to ceiling proceedings under the Haryana Ceiling on Land Holdings Act, 1972 (for short,

"the Act") wherein the Prescribed Authority had passed an order dated 17.10.1978 in relation to the suit land.

6. This led to filing of two civil suits by two sets of persons claiming interest in the suit land. One civil suit was C.S. No. 24-C of 1979 and other was C.S. No. 62-C of 1979.

7. So far as C.S. No. 24-C of 1979 is concerned, it was filed by the plaintiffs in the Court of Sub-Judge III Class, Sirsa, against the defendants. In this suit, the plaintiffs sought a declaration that the order dated 17.10.1978 passed by the Prescribed Authority under the Act is null and void. The Trial Court, by judgment/decreed dated 06.11.1981, dismissed the suit as being barred.

8. The plaintiffs felt aggrieved and filed first appeal (C.A.421-C/83) in the Court of Additional District Judge, Sirsa. By Judgment dated 17.09.1983, the First Appellate Court dismissed the appeal and upheld the judgment/decreed of the Trial Court.

9. The plaintiffs then carried the matter in appeal (R.S.A.No.40/1984) against the judgment/decreed of the First Appellate Court in the High Court of Punjab &Haryana at Chandigarh.

10. So far as C.S. No. 62-C of 1979 is concerned, it was filed by other set of plaintiffs. It was filed in the Court of Sub-Judge 1st Class, Sirsa against other set of defendants, though it was also in relation to the same suit land, which was the subject of C.S. No.24-C of 1979. In this suit also, the plaintiffs sought a declaration that the order dated 17.10.1978 passed by the Prescribed Authority under the Act is null and void but the Trial Court, by judgment/decreed dated 15.04.1985, decreed the suit.

11. The defendants felt aggrieved and filed first appeal (C.A.77-C/85) in the Court of Additional District Judge, Sirsa. By judgment dated 23.07.1987, the First Appellate Court dismissed the appeal. The defendants felt aggrieved and carried the matter in

appeal (R.S.A. No.2712/1987) in the High Court of Punjab & Haryana at Chandigarh.

12. Both the second appeals were clubbed together for their disposal.

13. By a common impugned order dated 28.01.2008, the High Court dismissed R.S.A. No. 40/1984 which arose out of C.S. No.24-C/79 and allowed RSA No. 2712/1987 which arose out of C.S. No. 62-C/1979 giving rise to filing of these appeals by special leave by the plaintiffs of both the civil suits mentioned above in this Court.

14. So, the short question involved in the present appeals is whether the High Court was justified in dismissing R.S.A. No.40/1984 and allowing R.S.A. No. 2712/1987.

15. Heard learned counsel for the parties.

16. Having heard the learned counsel for the parties and on perusal of the record of the case, we find no merit in these appeals.

17. In our considered opinion, the High Court was justified in holding that both the civil suits were barred and thus were not triable by the Civil Court in the light of express bar contained in Section 26 of the Act. Section 26 of the Act reads as under:

“26. Bar of Jurisdiction – (1) No civil court shall have jurisdiction to-

(a) entertain or proceed with a suit for specific performance of a contract for transfer of land which affects the right of the State Government to the surplus area under this Act; or

(b) settle, decide or deal with any matter which is under this Act required to be settled, decided or dealt with by the Financial Commissioner, the Commissioner, the Collector or the Prescribed Authority.

(2) No order of the Financial Commissioner, the Commissioner, the Collector or the prescribed authority made under or in pursuance of this Act shall be called in question in any court.”

18. Mere perusal of the plaint in both the civil suits would go to show that the plaintiffs (appellants) had challenged therein the legality of the order dated 17.10.1978 passed by the Prescribed Authority under

the Act and prayed that the order dated 17.10.2018 be declared null and void.

19. Section 9 of the Civil Procedure Code, 1908 provides that the Courts shall have jurisdiction to try all suits of civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

20. Section 26 (b) of the Act clearly bars filing of civil suit to examine the legality of the order passed by the Prescribed Authority under the Act. In other words, the Civil Court's jurisdiction is expressly taken away by Section 26(b) of the Act from examining the legality of orders passed under the Act. The remedy of the plaintiffs in such case lies in filing appeal/revision under Section 18 of the Act against the order of the Prescribed Authority. (See **Dhulabhai vs. State of M.P.**, AIR 1969 SC 78)

21. In view of the foregoing discussion, we are of the considered opinion that the High Court was justified in dismissing the appellants' suits as being barred by virtue of the bar contained in Section 26 of the Act. We

concur with the reasoning and the conclusion arrived at by the High Court finding no case to interfere in the impugned order in these appeals.

22. The appeals are, therefore, devoid of any merit. They are accordingly dismissed.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[DINESH MAHESHWARI]

New Delhi;
March 15, 2019